

### REMARKS

In reply to the Office Action of February 6, 2006, Applicant submits the following remarks. Claims 1 and 33 have been amended. Support for the amendments to claims 1 and 33 can be found at least in figure 2 and paragraphs 16 and 19. Claims 34-39 have been added. Support for the new claims can be found in figure 2 and paragraphs 15 and 23. Paragraph 1 of the specification has been amended to update the publication numbers of each of the applications. Applicant respectfully requests reconsideration in view of the foregoing amendments and these remarks.

#### Amendment to Specification

The amendment mailed March 24, 2005, was objected to under 35 U.S.C. § 132(a) because of alleged new matter. Applicant respectfully directs the Examiner's attention to amended paragraph 1 of the specification and to MPEP 608.01(p)(I).

MPEP 608.01(p)(I) addresses incorporation by reference and recites 37 CFR 1.57. "37 CFR 1.57(f) addresses corrections of incorporation by reference by inserting the material previously incorporated by reference. A noncompliant incorporation by reference statement may be corrected by an amendment. 37 CFR 1.57(f)." MPEP 608.01(p)(I)(a)(2). 37 CFR 1.57 (f) states, "Any insertion of material incorporated by reference into the specification or drawings of an application must be by way of an amendment to the specification or drawings. Such an amendment must be accompanied by a statement that the material being inserted is the material previously incorporated by reference and that the amendment contains no new matter."

Applicant's specification has been amended to add the incorporated material, see amendment mailed March 24, 2006. The material added to the specification can be found in U.S. Application No. 10/242,068, on page 13, starting at line 21 through page 15, line 22. U.S. Application No. 10/242,068 is incorporated by reference in the application as filed (see paragraph 1). Thus, the inserted material is the material previously incorporated by reference and the amendment contained no new matter.

Applicant believes this addresses the objection to the specification and requests that the Examiner withdraw the requirement to cancel the added subject matter from the specification.

#### Double Patenting Rejections

The Examiner rejected claims 1, 5, 20 and 33 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 30 of U.S. Patent No. 6,887,733 (the '733 patent) to Klausmann in view of U.S. Publication No. 2003/0197197 ("Brown"). Applicants respectfully request that the Examiner hold this rejection in abeyance until the claims are determined otherwise to be allowable.

The Examiner provisionally rejected claims 1-5, 7, 10, 18, 20 and 33 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 18-20 and 22-24 of U.S. Application No. 10/240,004 ("the '004 application) in view of Brown.

Applicant respectfully points out that the present application is a divisional application of the '004 application. During prosecution of the '004 application, the claims were subject to a restriction requirement. Applicant elected the group corresponding to method claims 1-17 and canceled claims in the non-elected group, which corresponded to device claims 18-24. Referring to MPEP 804.01, because device claims 18-24 were subject to a restriction requirement in the '004 application, 35 U.S.C. § 121 prohibits the use of the '004 application as a basis for a double patenting rejection of the claims in the present application so long as the claims are consonant with the restriction requirement. Further, claims 18-24 of the '004 application are no longer pending and therefore the provisional rejection is improperly based on canceled claims.

#### Section 102/103 Rejections

Claims 1-31 and 33 were rejected under 35 U.S.C. § 102(e) as being anticipated by, or in the alternative under section 103(a) obvious over Brown.

Amended claim 1 is directed to a device having an active component with upper and lower electrodes. A getter layer is in direct contact with the upper electrode of an active component. The getter layer consists essentially of an alkaline earth metal, aluminum, tantalum or zirconium.

Brown describes a OLED device having an OLED 116, an adhesive layer 130 and a getter 118 (Figs. 3-4, paragraphs 69-73). The getter material 118 is either on a barrier layer 120, on a substrate layer or is incorporated into the adhesive layer 130.

Brown fails to suggest or disclose a getter layer in direct contact with the upper electrode of an active component where the getter layer consists essentially of an alkaline earth metal, aluminum, tantalum or zirconium. In Brown, one embodiment shows a getter layer on the barrier layer 20, there being a gap between the getter layer and the OLED 116 (Fig. 4). Thus, this embodiment does not show the getter layer in direct contact with the upper electrode of an active component. Brown notes that the getter can alternatively be applied to the substrate layer, but does not suggest that the getter is applied directly on an upper electrode. In another embodiment, the getter material is mixed into the adhesive layer (Figs. 2-3). Thus, in this embodiment, the getter material does not consist essentially of an alkaline earth metal, aluminum, tantalum or zirconium. For at least these reasons, applicant submits that claim 1 as amended is not anticipated by or obvious over Brown. Claims 2-12, 4-19, 27 and 29-31 depend from claim 1 and are similarly not anticipated or obvious over Brown after amendment to claim 1.

Claim 20 is directed to an organic electroluminescent device having conducting lines to provide electrical access to an OLED cell and a protective layer to prevent shorting of the conducting lines.

Brown describes semiconductors as suitable substrate layers 110 upon which electronic circuitry can be built (paragraph 52). Brown also describes a device with a protective layer 126 between an adhesive layer 130 and an OLED 116 to protect the OLED 116 from harmful materials.

Brown suggests using semiconductors for the substrate layer 110, because semiconductors provide a substrate layer upon which electronic circuitry can be formed. However, Brown does not describe how the protective layer 126 might be formed with respect to any electronic circuitry that may be formed on the substrate layer 110. Brown only describes a protective layer 126 formed to protect the OLED 116 from harmful materials. This does not suggest that the protective layer 126 be formed in proximity of the electronic circuitry much less that the protective layer prevents shorting of conducting lines. For at least this reason, applicant

submits that Brown does not teach or suggest protective layer to prevent shorting of the conducting lines, as required by claim 20. Therefore, no *prima facie* case of obviousness has been made with respect to claim 20 and claim 20 is not anticipated by Brown. Claims 21-26 depend from claim 20 and are similarly not anticipated by or obvious over Brown.

Claim 33 is directed to a device having a getter layer in direct contact with an active component on a substrate. The getter layer consists essentially of an alkaline earth metal, aluminum, tantalum or zirconium.

For similar reasons to those provided with respect to claim 1, applicant submits that Brown fails to teach or suggest a device with a getter layer in direct contact with an active component, where the getter layer consists essentially of an alkaline earth metal, aluminum, tantalum or zirconium. Rather, Brown teaches a getter material 118 that is separated from an OLED 116, not in direct contact with an active component. Brown also teaches an adhesive layer 130 with some getter material mixed in that contacts the OLED 116, but the adhesive is not a getter layer that consists essentially of an alkaline earth metal, aluminum, tantalum or zirconium. For at least these reasons, applicant submits that claim 33 is not anticipated by Brown and that no *prima facie* case of obviousness has been made for claim 33 after amendment in light of Brown.

#### Section 103 Rejections

Claim 32 is rejected over Brown in view of applicant's admitted prior art. Applicant respectfully disagrees.

Claim 32 depends from claim 1 and necessarily requires all of the limitations of claim 1. Amended claim 1 requires a getter layer in direct contact with the upper electrode of an active component where the getter layer consists essentially of an alkaline earth metal, aluminum, tantalum or zirconium. As noted above, Brown does not teach or suggest such a getter layer. Applicant's admitted prior art discusses using a drying agent, such as barium oxide, calcium oxide or sodium oxide or a drying agent, such as zeolite or silica gel. However, these materials are not the getter materials required by claim 33 and there is no indication of where to place the materials.

Applicant respectfully requests that the anticipation and obviousness rejections be withdrawn.

New Claims

Claims 34-39 are new. Each of the new claims depends from one of the claims discussed above. For at least the reasons provided above, applicant submits that the new claims are not anticipated or obvious in light of Brown.

The excess claim fees in the amount of \$300 and the one-month extension of time fee in the amount \$120 are being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any required charges or credits to deposit account 06-1050.

Respectfully submitted,

Date:

June 6, 2006

Jennifer A. Zanoeco  
Reg. No. 54,563

Customer No. 26181  
Fish & Richardson P.C.  
Telephone: (650) 839-5070  
Facsimile: (650) 839-5071